



PTO/SB/26 (09/-04)

Approved for use through 07/31/2006. OMB 0651-0031

United States Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
**ASA-817-02**In re Application of: **H. WATANABE et al.**Application No.: **10/721,088**Filed: **November 26, 2003**For: **STORAGE SYSTEM**

The owner, **HITACHI, LTD.**, of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. **6,681,303** as the term of said prior patent is defined in 35 USC 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is issued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.


Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Reg. No. **30,293**

 **June 30, 2006**  
\_\_\_\_\_  
Signature Date

**John R. Mattingly**  
\_\_\_\_\_  
Typed or printed name

**(703) 684-1120**  
\_\_\_\_\_  
Telephone number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form.  
Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP §324.

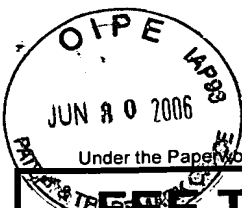
This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

07/05/2006 RMEBRAHT 00000075 10721088

01 FC:1814

130.00 OP

**FEE TRANSMITTAL  
for FY 2005**

Effective 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

TOTAL AMOUNT OF PAYMENT (\$130.00)

Attorney Docket No. ASA-817-02

**Complete if Known**Application Number 10/721,088  
Filing Date November 26, 2003  
First Named Inventor H. WATANABE**METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit Card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:

Deposit

Account

Number

Deposit

Account

Name

50-1417

MATTINGLY, STANGER &amp; MALUR, P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) during the pendency of this application.☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

| Large Entity | Small Entity | Fee | Fee | Fee Description        | Fee Paid |
|--------------|--------------|-----|-----|------------------------|----------|
| Code (\$)    | Code (\$)    |     |     |                        |          |
| 1011         | 2011         | 300 | 150 | Utility filing fee     |          |
| 1012         | 2012         | 200 | 105 | Design filing fee      |          |
| 1013         | 2013         | 200 | 100 | Plant filing fee       |          |
| 1014         | 2014         | 300 | 150 | Reissue filing fee     |          |
| 1005         | 2005         | 200 | 100 | Provisional filing fee |          |
| 1111         | 2111         | 500 | 250 | Utility Search fee     |          |
| 1112         | 2112         | 100 | 50  | Design Search fee      |          |
| 1113         | 2113         | 300 | 150 | Plant Search fee       |          |
| 1114         | 2114         | 500 | 250 | Reissue Search fee     |          |
| 1311         | 2311         | 200 | 100 | Utility Ex. fee        |          |
| 1312         | 2312         | 130 | 65  | Design Ex. fee         |          |
| 1313         | 2313         | 160 | 80  | Plant Ex. fee          |          |
| 1314         | 2314         | 600 | 300 | Reissue Ex. fee        |          |
| SUBTOTAL (1) |              |     |     |                        | 0.00     |

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

|                    | Extra Claims | Fee from below  | Fee Paid |
|--------------------|--------------|-----------------|----------|
| Total Claims       | -20 =        | x 50 =          |          |
| Indep. Claims      | -3 =         | x 200 =         |          |
| Multiple Dependent |              | 360 =           |          |
| Large Entity       | Small Entity | Fee Description |          |
| Code (\$)          | Code (\$)    |                 |          |
| 1202               | 2202         | 50              | 25       |
| 1201               | 2201         | 200             | 100      |
| 1203               | 2203         | 360             | 180      |
| 1204               | 2204         | 200             | 100      |
| 1205               | 2205         | 50              | 25       |
| SUBTOTAL (2) \$    |              |                 | 0.00     |

\*\*or number previously paid, if greater; For Reissues, see above.

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity Small Entity

| Fee Code | Fee (\$) | Fee Code | Fee (\$) | Fee Description  |
|----------|----------|----------|----------|--|
| 1051     | 130      | 2051     | 65       | Surcharge - late filing fee or oath  |
| 1052     | 50       | 2052     | 25       | Surcharge - late provisional filing fee or cover sheet                     |
| 1053     | 130      | 1053     | 130      | Non-English specification  |
| 1081     | 250      | 2081     | 125      | Utility Application Size fee - for each 50 over 100                        |
| 1082     | 250      | 2082     | 125      | Design Application Size fee - for each 50 over 100                         |
| 1812     | 2,520    | 1812     | 2,520    | For filing a request for ex parte reexamination                            |
| 1804     | 920*     | 1804     | 920*     | Requesting publication of SIR prior to Examination action                  |
| 1805     | 1,840*   | 1805     | 1,840*   | Requesting publication of SIR after Examiner action                        |
| 1251     | 120      | 2251     | 60       | Extension for reply within first month                                     |
| 1252     | 450      | 2252     | 225      | Extension for reply within second month                                    |
| 1253     | 1020     | 2253     | 510      | Extension for reply within third month                                     |
| 1254     | 1,590    | 2254     | 795      | Extension for reply within fourth month                                    |
| 1255     | 2,160    | 2255     | 1,080    | Extension for reply within fifth month                                     |
| 1401     | 500      | 2401     | 250      | Notice of Appeal   |
| 1402     | 500      | 2402     | 250      | Filing a brief in support of an appeal                                     |
| 1403     | 1000     | 2403     | 500      | Request for oral hearing   |
| 1451     | 1,510    | 1451     | 1,510    | Petition to institute a public use proceeding                              |
| 1452     | 500      | 2452     | 250      | Petition to revive - unavoidable   |
| 1453     | 1,500    | 2453     | 750      | Petition to revive - unintentional   |
| 1501     | 1,400    | 2501     | 700      | Utility issue fee (or reissue)   |
| 1502     | 800      | 2502     | 400      | Design issue fee   |
| 1503     | 1,100    | 2503     | 550      | Plant issue fee  |
| 1460     | 130      | 1460     | 130      | Petitions to the Commissioner  |
| 1807     | 50       | 1807     | 50       | Processing fee under 37 CFR 1.17(q)  |
| 1806     | 180      | 1806     | 180      | Submission of Information Disclosure Stmt                                  |
| 8021     | 40       | 8021     | 40       | Recording each patent assignment per property (times number of properties) |
| 1809     | 790      | 2809     | 395      | Filing a submission after final rejection (37 CFR § 1.129(a))              |
| 1810     | 790      | 2810     | 395      | For each additional invention to be examined (37 CFR § 1.129(b))           |
| 1801     | 790      | 2801     | 395      | Request for Continued Examination (RCE)                                    |
| 1802     | 900      | 1802     | 900      | Request for expedited examination of a design application.                 |

Other fee (specify) 1814 TERMINAL DISCLAIMER

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

130

130.00

**SUBMITTED BY****Complete (if applicable)**

|                   |                   |                                   |        |           |                |
|-------------------|-------------------|-----------------------------------|--------|-----------|----------------|
| Name (Print/Type) | John R. Mattingly | Registration No. (Attorney/Agent) | 30,293 | Telephone | (703) 684-1120 |
| Signature         |                   |                                   |        | Date      | June 30, 2006  |

The collection of information is required by 37 CFR 1.17 and 1.12. The information is required to allow or return a benefit to the public which is not provided by the USPTO to process an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the burden of this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9100 and select option 3.